

Subject: Additional Permit Violations at Westpoint Harbor

Date: Thursday, August 3, 2017 at 3:48:06 PM Pacific Daylight Time

From: Zeppetello, Marc@BCDC

To: chris.carr@bakerbotts.com, kevin.vickers@bakerbotts.com, David Smith

CC: Zeppetello, Marc@BCDC, Ogata, Gregory@BCDC

Counsel:

On Tuesday, I notified you of additional permit violations at Westpoint Harbor that had been called to our attention last week by a member of the public. Specifically, Mr. Sanders has installed an unauthorized "Westpoint Harbor Boat Launch" sign at the public boat launch that violates the public access requirements of the BCDC permit by: (1) requiring a permit and (2) charging a fee for the public to use this required public access amenity in a dedicated public access area. I asked you to advise me promptly if your client agrees to immediately remove the sign or effectively cover the last two bullet points until an approved sign can be installed. I also asked you to let me know whether your client agrees not to contest that he may not require a permit or charge a fee for use of the public boat launch, or any other public access amenity at the site, or if these are disputed issues that will need to be resolved in the pending enforcement proceeding. You have not responded.

Requiring a permit or charging a fee to use a required public access amenity violates BCDC permit Special Condition II.B.1 that requires public access to be "made available exclusively to the public for *unrestricted* public access..." (emphasis added). Mr. Sanders is hereby directed to immediately remove the unauthorized "Westpoint Harbor Boat Launch" sign or to effectively cover the last two bullet points (referencing a permit and a fee to use the boat launch) by no later than tomorrow, Friday, August 4. If Mr. Sanders fails to comply with this request, this is to notify him, through counsel, that BCDC staff will allege that his continued maintenance of this sign, posting impermissible requirements for both a permit and a fee to use the public boat launch, is a separate violation from all other violations alleged in the Violation Report/Complaint, and that staff will seek in the pending enforcement proceeding additional penalties of \$1,000 per day for this violation commencing August 4 and continuing until the violation is resolved. To avoid staff making this allegation and seeking such penalties, please submit by tomorrow a date-stamped photograph of the boat launch area showing that this sign is no longer present or that the last two bullet points have been effectively covered. In addition, if Mr. Sanders would like to avoid having this violation included in the pending enforcement proceeding, please confirm by tomorrow that he will not contest that he may not require a permit or charge a fee for use of the public boat launch or any other public access amenity at Westpoint Harbor.

Thank you.

Marc A. Zeppetello

Chief Counsel

San Francisco Bay Conservation
and Development Commission

455 Golden Gate Avenue, Suite 10600

San Francisco, CA 94102

Telephone: (415) 352-3655

marc.zeppetello@bcdc.ca.gov